

AMENDED IN ASSEMBLY JUNE 22, 2006

AMENDED IN SENATE APRIL 25, 2006

**SENATE BILL**

**No. 1169**

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**Introduced by Senator Cox**

January 11, 2006

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An act to amend Section 12751.3 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1169, as amended, Cox. Municipal utility districts: purchases.

The Municipal Utility District Act generally requires the purchase of supplies and materials by a municipal utility district to be let by contract to the lowest responsible bidder when the expenditure is in excess of \$25,000, or, in any district with a population of 250,000 or more, in excess of \$50,000, with annual adjustments to those dollar limits.

The act also establishes an alternative acquisition process under which, if the purchase of supplies and materials by a district exceeds \$50,000, and the district determines that ratepayers reasonably can expect a net benefit in the cost of district services, the district may provide for the purchase of the supplies and materials by contract let in accordance with best value at the lowest cost acquisition policies adopted by the district's board. The act requires a district that elects to purchase supplies and materials by contract let in accordance with those policies to submit a specified report to the Legislative Analyst on or before January 1, 2006, and requires the Legislative Analyst to report to the Legislature on or before April 1, 2006. Those alternative acquisition process provisions are repealed on January 1, 2007.

This bill would delete that January 1, 2007, repeal date, thereby making those alternative acquisition process provisions operative indefinitely for districts that purchase supplies and materials by contract let pursuant to a best value at the lowest cost of acquisition policy before January 1, 2006. The bill would require that the best value at the lowest cost acquisition policy adopted by the district include specified provisions. For any district that did not purchase supplies and materials by contract let pursuant to best value at the lowest cost acquisition policy prior to January 1, 2006, and that thereafter elects to purchase supplies and materials pursuant to a best value at the lowest cost acquisition policy, the district would be required to submit a specified report to the Legislative Analyst on or before January 1, 2011. The bill would require the Legislative Analyst to report to the Legislature on or before ~~January~~ April 1, 2011. The bill would prohibit a district that did not purchase supplies and materials by contract let pursuant to best value at the lowest cost acquisition policies prior to January 1, 2006, from purchasing supplies and materials by contract let pursuant to these provisions after January 1, 2012.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 12751.3 of the Public Utilities Code is  
2 amended to read:  
3 12751.3. (a) The purpose of this section is to provide  
4 affected districts with an alternative acquisition process that will  
5 result in reduced costs to ratepayers. Notwithstanding Section  
6 12751, when the expenditure for the purchase of supplies and  
7 materials exceeds fifty thousand dollars (\$50,000) and the district  
8 determines that ratepayers reasonably can expect a net benefit in  
9 the cost of district services, the district may provide for the  
10 purchase of the supplies and materials by contract let in  
11 accordance with best value at the lowest cost acquisition policies  
12 adopted by the board pursuant to this section.  
13 (b) The best value at the lowest cost acquisition policies  
14 adopted pursuant to subdivision (a) shall include the following:  
15 (1) Price and service level proposals that reduce the district's  
16 overall operating costs.

1 (2) Supplies and materials standards that support the district's  
2 strategic supplies and materials acquisition and management  
3 program direction.

4 (3) A procedure for protest and resolution.

5 (c) For purposes of this section, "best value at the lowest cost  
6 acquisition" means a competitive procurement process whereby  
7 the award of a contract for supplies and materials may take into  
8 consideration any of the following factors:

9 (1) The total cost to the district of its use or consumption of  
10 supplies and materials.

11 (2) The operational cost or benefit incurred by the district as a  
12 result of the contract award.

13 (3) The value to the district of vendor-added services.

14 (4) The quality, effectiveness, and innovation of supplies,  
15 materials, and services.

16 (5) The reliability of delivery or installation schedules.

17 (6) The terms and conditions of product warranties and vendor  
18 guarantees.

19 (7) The financial stability of the vendor.

20 (8) The vendor's quality assurance program.

21 (9) The vendor's experience with the provision of supplies,  
22 ~~material~~ materials, and services.

23 (10) The consistency of the vendor's proposed supplies,  
24 materials, and services with the district's overall supplies and  
25 materials procurement program.

26 (11) The economic benefits to the general community related  
27 to; job creation or retention.

28 (d) If a district that did not purchase supplies and materials by  
29 contract let pursuant to this section before January 1, 2006, elects  
30 to purchase supplies and materials by contract, let in accordance  
31 with best value acquisition policies adopted by the board  
32 pursuant to this section, the district shall submit a report to the  
33 Legislative Analyst on or before January 1, 2011. The district  
34 shall include in the report a summary of the costs and benefits of  
35 best value acquisition compared to traditional low bid  
36 procurement practices. The report shall also include statistics  
37 showing the number of contracts awarded to small businesses,  
38 minority-owned businesses, and new businesses and the number  
39 of years each contract awardee had been in business. The report  
40 shall also include an analysis of the effects of best value

1 procurement practices on these businesses, the nature of any  
2 disputes arising from the use of best value procurement practices,  
3 and the status of those disputes. On or before April 1, 2011, the  
4 Legislative Analyst shall report to the Legislature on the use of  
5 “best value at lowest cost acquisition” procurement practices  
6 used by municipal utility districts. ~~The report may include~~  
7 ~~recommendations for modifying the provisions of this section~~  
8 ~~and extending the districts, and recommend whether to modify~~  
9 ~~this section and extend the~~ authority of additional districts to  
10 elect to purchase supplies and materials by contract let in  
11 accordance with best value acquisition policies, beyond January  
12 1, 2012.

13 (e) The district shall ensure that all businesses have a fair and  
14 equitable opportunity to compete for, and participate in, district  
15 contracts and shall also ensure that discrimination in the award  
16 and performance of contracts does not occur on the basis of race,  
17 color, sex, national origin, marital status, sexual preference,  
18 creed, ancestry, medical condition, or retaliation for having filed  
19 a discrimination complaint in the performance of district  
20 contractual obligations.

21 (f) A district that did not purchase supplies and materials by  
22 contract let pursuant to this section before January 1, 2006, shall  
23 not purchase supplies and materials by contract let pursuant to  
24 this section after January 1, 2012.